IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

WRIT PETITION NO : 1463 of 1995

Between:

The Depot Manager APSRTC Bus Depot
Jagtial, Karimnagar District.

..... PETITIONER

AND

The Asst. Labour Officer,
Jagtial, Karimnagar District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ, order or direction particularly in the nature of a Writ, of certiorari calling for the records relating to the order of the Authority under Minimum Wages Act and Asst. Commissioner, Labour, Karimnagar passed in M.W. Act 101/92 dt:25/10/1993 and quash the same as being illegal arbitrary, and without jurisdiction.

Counsel for the Petitioner: SMT.A.VIJAYANTI (SC FOR APSRTC)

Counsel for the Respondent: G.P. FOR LABOUR

The Court made the following:

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ORAL ORDER:

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1. The writ petition is filed by the management of A.P. State Road Transport Corporation (for short “A.P.S.R.T.C.”) challenging the order passed by the Authority under Minimum Wages Act and the Assistant Commissioner of Labour, Karimnagar, in M.W.No.101 of 1992, dated 25.10.1993.

2 . The Assistant Labour Officer filed a claim before the Authority alleging that the A.P.S.R.T.C. failed to pay minimum wages as prescribed in G.O.Ms.No.71, dated 16.4.1991. The Authority under Minimum Wages Act, allowed the claim by an order, dated 25.10.1993. Against which, the present writ petition has been filed.

3 . The learned counsel appearing for the management submits that the workers were employed by the Contractor and therefore, A.P.S.R.T.C. is not in a position to effectively defend its case. The number of days on which they worked is also not known and the payment of wages between the contractor and the A.P.S.R.T.C. is governed by the contractor, and hence, the learned counsel submits that the Authority failed to consider this aspect. The learned counsel would also submit that the contractor was not made a party and therefore, the learned Authority ought to have dismissed the application for non-joinder of necessary parties.

4. I have heard the learned Government Pleader for Labour.

5 . The claim is based on the minimum wages prescribed by the Government in respect of the transport workers, but however, I find that the contractor has not been made a party before the Authority under the Minimum Wages Act. He is a necessary and proper party.

6. Under those circumstances, I find that the order of the Authority is not sustainable and accordingly it is set aside and the matter is remitted back to the Authority for fresh consideration. The A.P.S.R.T.C. shall take appropriate steps to implead the contractor in the proceedings and proceed with the enquiry. The Authority shall hear the parties concerned and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order.

7. The writ petition is accordingly disposed of. There shall be no order as to costs.

_____ (G. BIKSHAPATHY, J.)

4th November, 2004

bcj/mrr

To

1. The Asst. Labour Officer,
Jagtial, Karimnagar District.

2. Two C.Cs. to G.P. for Labour, High Court Buildings,

High Court of A.P., Hyderabad, (OUT)

3. Two C.D.Copies.